

State of Utah  
Administrative Rule Analysis  
Revised May 2020

DAR File NO. 53315

Date Filed: 2-9-2021

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ☐; Amendment XXXX ☐; Repeal ☐; Repeal and Reenact ☐

Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R156-76	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Commerce	
Agency:	Division of Occupational and Professional Licensing	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Steve Duncombe	(801) 530-6235	sduncombe@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Professional Geologist Licensing Act Rule

3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):

These proposed amendments correct, clarify and update certain language and licensing requirements as recommended by the Professional Geologist Licensing Board.

4. Summary of the new rule or change:

Section R156-76-102: Subsection (1) corrects the definition of "ASBOG" to include the accurate name of the "National Association of State Boards of Geology". Due to closure of the company, Subsection (6)(a) replaces the "International Credentialing Association" with the "Foreign Credentials Service of America" (FCSA). The definitions of "employee and subordinate" in Section R156-76-304 are incorporated into this section.

Section R156-76-302b: Subsection (2) again replaces reference to the International Credentialing Association with the FCSA.

Section R156-76-302d is amended to include the registration requirements for the FG, and PG examinations, and update the examination requirements for applicants seeking licensure by endorsement, as follows: (1) applicants need only be licensed for ten years prior to their application instead of 20 years; (2) the jurisdictional predecessor exam requirement is deleted; and (3) it is clarified that the Division may, but is not obligated to, waive the required exams.

Section R156-76-303 is amended to update citations to renewal procedures.

Section R156-76-304 is deleted in its entirety and the definitions are incorporated into Section R156-76-102.

Section R156-76-502: Subsection (4) updates the incorporated "Code of Ethics of the ASBOG Model Rules and Regulations" from the 2011 version to the August 2019 revision.

GOOGLE MEETS INFORMATION FOR March 10, 2021 rule hearing before the Division:

Join with Google Meet

[meet.google.com/chp-ndvb-bch](https://meet.google.com/chp-ndvb-bch)

Join by phone  
(US) +1 219-316-1532 (PIN: 522983227)

### Fiscal Information

#### 5. Aggregate anticipated cost or savings to:

##### A) State budget:

These proposed amendments are not expected to have any fiscal impacts on state government revenues or expenditures as they will only update definitions and not affect current state practices and procedures.

##### B) Local governments:

These proposed amendments are not expected to have any fiscal impacts on local government revenues or expenditures as they will only update definitions and not affect local government practices and procedures.

##### C) Small businesses ("small business" means a business employing 1-49 persons):

These proposed amendments are not expected to have any fiscal impacts on small business (NAICS 541360), as the amendments will not affect any small business revenues or expenditures.

##### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the geology industry in question listed in Utah (NAICS 541360) and no impact is expected to non-small business.

##### E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendments to Section R156-76-302d will provide a more expedited licensure by endorsement pathway for some applicants for licensure as professional geologists. The Division estimates that on average, one applicant every three years will qualify to obtain a waiver of the requirement to take the ASBOG FG and PG examinations. These applicants are expected to experience a one-time savings of approximately \$590 resulting from a reduction in cost of \$530 for exam fees and of approximately \$60 for study materials. These applicants may also potentially become licensed in Utah from one to twelve months earlier because the ASBOG exams are only offered twice a year, and so they may also experience a corresponding earnings increase from expedited licensure. However, the exact benefit from any expedited licensure cannot be estimated as it will depend entirely on individual circumstances and employment choices.

##### F) Compliance costs for affected persons:

These amendments are not expected to impose any compliance costs for any affected persons.

##### G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Net Fiscal Benefits

\$0

\$0

\$0

**H) Department head approval of regulatory impact analysis:**

The head of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division of Occupational and Professional Licensing ("Division") proposes amendments to the Professional Geologist Licensing Act Rule. The Division is filing these proposed amendments to clarify and update the rule with advisement from the Utah Professional Geologist Licensing Board. Among the changes are amendments to align the credentialing section with the definitions section, amend the registration requirements, update the renewal process, and incorporate by reference the 2019 National Association of State Boards of Geology Code of Ethics. Further, the Division has made minor amendments to update references and clarify the rule.

Small Businesses (less than 50 employees): The proposed amendments are not expected to impact small business revenues or expenditures for those that employ professional geologists (NAICS 541360). Further, no fiscal impact is expected for small business as the costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses employing professional geologists (NAICS 541360) in Utah for the same rationale as described above for small business. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Margaret W. Busse, Interim Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

Section 58-76-101

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):**

First Incorporation	
Official Title of Materials Incorporated (from title page)	Section 16 Code of Ethics of the ASBOG Model Rules and Regulations (updates)
Publisher	National Association of State Boards of Geology (ASBOG)
Date Issued	
Issue, or version	August 2019

**B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):**

Second Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)**

A) Comments will be accepted until (mm/dd/yyyy):

03/31/2021

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

03-10-2021

At (hh:mm AM/PM):

9:00 AM

At (place):

Rule hearing will be conducted electronically before the Division. See box 4 for Google Meets information to access the rule hearing.

10. This rule change MAY become effective on (mm/dd/yyyy): 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or  
designee, and title:



Date  
(mm/dd/yyyy):

Feb 8, 2021

R156. Commerce, Occupational and Professional Licensing.

R156-76. Professional Geologist Licensing Act Rule.

R156-76-102. Definitions.

In addition to the definitions in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 76, Professional Geologist Licensing Act, the following rule definitions supplement the statutory definitions[as used in Title 58, Chapters 1 and 76, or this rule]:

(1) "ASBOG" means the National Association of State Boards of Geology.

(2) "Employee" or "subordinate" means an individual who:

(a) is not licensed as a professional geologist;

(b) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and

(c) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, or authorization of a person licensed as a professional geologist.

([2]3) "Geosciences"[7] as used in Subsection 58-76-302(4)(a), means an earth science degree[7, which] that results in sufficient geological knowledge to enable the practice of geology before the public.

([3]4) "Qualified individual"[7] as used in Section R156-76-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-76-302, [and] R156-76-302b, and R156-76-302c.

([4]5) "Practice of geology before the public"[7] as used in Subsection 58-76-102(3) does not include the following activities:

(a) routine sampling, laboratory work, or geological drafting, where the elements of initiative, scientific judgment, and decision-making are lacking;

(b) data acquisition where geological interpretation is minimal and incidental, such as [4]for example mud-logging, wireline logging, rock property measurements, dating, and geochemical, geophysical and biological surveys[4];

(c) the following aspects of paleontology:

(i) taxonomy;

(ii) biologic analysis of organisms; or

(iii) investigation and reporting of deposits [which]that may be fossiliferous, including incidental geological analysis; or

(d) the following aspects of the practice of anthropology and archeology:

(i) archeological survey, excavation, and reporting;

(ii) production of archeological plan views, profiles, and regional overviews; or

(iii) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.

([5]6) "Principal"[7] as used in Subsection 58-76-603(2), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.

([6]7) "Recognized jurisdiction"[7] as used in Subsection R156-76-302d(2), means any state, district or territory of the United States that issues a license for a professional geologist, and whose licensure requirements include:

(a) a bachelor's or post-graduate degree in the geosciences from an accredited institution, or equivalent foreign education as determined by the ~~[International Credentialing Association]~~ Foreign Credentials Service of America (FCSA) and the Division in collaboration with the board;

(b) documented qualifying experience requirements similar to the experience requirements ~~[found]~~ in Subsection 58-76-302(5) and Section R156-76-302; and

(c) passing the ASBOG Fundamentals of Geology (FG) Examination and the ASBOG Principles and Practice of Geology (PG) Examination.

~~[[7]8)~~ "Unprofessional conduct" ~~[7]~~ as defined in Title 58, Chapter ~~[s]~~ 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 76, Professional Geologist Licensing Act, is further defined, in accordance with Subsection 58-1-203 ~~[45]~~ (1)(e), in Section R156-76-502.

**R156-76-302b. Qualifications for Licensure - Education Requirements.**

(1) In accordance with Section 58-76-302, the education requirements for graduates of an approved geoscience program are as follows:

(a) an earned bachelor's or master's degree in geology from an accredited institution; or

(b) an earned bachelor's or post-graduate degree in the geosciences from an accredited institution including the completion of a minimum of 24 semester or 36 quarter hours in upper level or graduate geology courses ~~[, which]~~ that includes one or more of the following subject areas:

(i) structural geology;

(ii) geophysics;

(iii) (A) sedimentology ~~[/]~~;

(B) stratigraphy ~~[/]~~; or

(C) paleontology;

(iv) (A) mineralogy ~~[/]~~;

(B) petrology ~~[/]~~; or

(C) geochemistry;

(v) (A) engineering geology ~~[/]~~; or

(B) environmental geology;

(vi) (A) hydrogeology ~~[/]~~; or

(B) hydrology;

(vii) (A) geomorphology ~~[/]~~; or

(B) remote sensing; or

(viii) (A) economic geology ~~[/]~~; or

(B) petroleum geology; ~~[and]~~ or

(ix) field geology.

(2) In accordance with Section 58-1-302, an applicant who has been educated in a foreign country shall submit a course-by-course accreditation evaluation completed by ~~[International Credentialing Associates]~~ FCSA to determine program equivalency.

**R156-76-302d. Qualifications for Licensure - Examination Requirements.**

(1) In accordance with Subsection 58-76-302(~~[6]~~5), except as ~~[otherwise]~~ provided in Subsections ~~[(2) or (3)]~~ (4) or (5), the examination requirements for licensure as a professional geologist ~~[after January 1, 2004]~~ are ~~[established]~~ as follows:

(a) the ASBOG [~~Fundamentals of Geology~~] ([~~1~~]FG[~~1~~]) Examination with a passing score as recommended by the ASBOG; and

(b) the ASBOG [~~Principles and Practice of Geology~~] ([~~1~~]PG[~~1~~]) Examination with a passing score as established by the ASBOG.

(2) Prior to registering for the ASBOG FG Examination, an applicant shall:

(a) be enrolled in the final semester or an approved program; or

(b) have completed the education requirements in Section R156-76-302b.

(3) Prior to taking the ASBOG PG Examination, an applicant shall have passed the ASBOG FG Examination.

(~~[2]~~4) The Division may waive the ASBOG FG Examination [~~shall not be required~~] for an applicant who:

(a) has practiced as a principal for five years of the last seven years preceding the date of the license application;

(b) was not required to pass the ASBOG FG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed; and

(c) has passed the ASBOG PG Examination.

(~~[3]~~5) The Division may waive the ASBOG FG and PG Examinations [~~shall not be required~~] for an applicant who:

(a) has practiced as a principal for five years during the last seven years preceding the date of the license application;

(b) has been licensed for [~~20~~]ten years preceding the date of the license application; and

(c) [~~who~~]was not required to pass the ASBOG FG and PG Examinations for initial licensure from the recognized jurisdiction the applicant was originally licensed[, but was required to pass a predecessor exam established by the recognized jurisdiction].

#### **R156-76-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 76, Professional Geologist Licensing Act, is established [~~by rule~~] in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

#### **[R156-76-304. Exemption from Licensure.]**

~~The exemption from licensure in Subsection 58-76-304(1) is defined or clarified as follows: An "employee" or "subordinate", as used therein and elsewhere in Title 58, Chapter 76, or this rule, means an individual who:~~

~~(1) is not licensed as a professional geologist;~~

~~(2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and~~

~~(3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.]~~

#### **R156-76-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report or set of plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of plans to be complete and final; or

(b) to a government official [~~for the purpose of~~] to obtain[ing] a permit;

(2) failing as a principal to exercise responsible charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or

(4) failing to conform to the accepted and recognized standards and ethics of the profession, including those [~~stated~~] in Section 16 Code of Ethics of the [~~2011 edition of the "National Association of State Boards of Geology (ASBOG)"~~] "ASBOG Model Rules and Regulations," [~~7~~] revised August 2019, which is hereby incorporated by reference.

KEY: licensing, professional geologists, geology

Date of Enactment or Last Substantive Amendment: [~~May 8, 2017~~] 2021

Notice of Continuation: February 2, 2017

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-76-101